

Brad T. Summers, OSB No. 911116
tsummers@balljanik.com
David W. Criswell, OSB No. 925930
dcriswell@balljanik.com
BALL JANIK LLP
101 SW Main Street, Suite 1100
Portland, OR 97204
Telephone: (503) 228-2525
Facsimile: (503) 295-1058

Attorneys for Kenneth S. Eiler, Chapter 11 Trustee

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON**

In re

**THE MICHAEL KING SMITH
FOUNDATION,**

Debtor.

Case No. 16-30233-rld11

**TRUSTEE'S NOTICE OF INTENT TO
SETTLE WITH EVERGREEN
AVIATION AND SPACE MUSEUM
CONCERNING PAYMENT OF
PERSONAL PROPERTY TAXES**

Kenneth S. Eiler, Chapter 11 Trustee (the "Trustee"), proposes to settle issues that have arisen with the Evergreen Aviation and Space Museum and the Captain Michael King Smith Educational Institute (the "Museum") concerning certain personal property taxes. The personal property taxes at issue relate to personal property associated with the Waterpark previously owned by The Michael King Smith Foundation (the "Debtor").

The Waterpark is located at the Debtor's campus of facilities in McMinnville, Oregon. The Debtor previously owned the Waterpark and leased it to the Museum. The Trustee recently sold the Waterpark, and all of the Debtor's personal property associated with the Waterpark, to The Falls at McMinnville LLC ("Falls"). The Museum also owned other personal property associated with the Waterpark, which the Museum will transfer to Falls in conjunction with the transition of the Waterpark operations to Falls.

Yamhill County has assessed property taxes for personal property associated with the Waterpark. The total amount of those taxes, with interest to September 15, 2016, is \$126,683.57. The tax bills for those amounts were in the name of the Museum, not the Debtor.

**Page 1 - TRUSTEE'S NOTICE OF INTENT TO SETTLE WITH EVERGREEN AIR
AND SPACE MUSEUM CONCERNING PAYMENT OF PERSONAL
PROPERTY TAXES**

BALL JANIK LLP
One Main Place
101 Southwest Main Street, Suite 1100
Portland, Oregon 97204-3219
Telephone 503-228-2525

Case 16-30233-dwh11 Doc 133 Filed 08/31/16

1076193\v2

Yamhill County has asserted that the entire amount of the unpaid taxes is due from the Debtor's bankruptcy estate. The Trustee has disputed that all of the taxes are due from the estate. The Museum contends that some or all of the taxes should be paid by the Trustee.

The Trustee and the Museum have agreed to settle the dispute over who should ultimately be responsible for the payment of these taxes. They have agreed that the Museum will pay 20% of the personal property taxes and the Trustee will pay 80% of the taxes. The allocation of 80% of the taxes to the Debtor's estate corresponds roughly to the respective values of the Debtor's personal property included in the sale to Falls and the Museum's personal property as of the date of the sale to Falls.

YOU ARE NOTIFIED that unless you file an objection to this notice no later than September 12, 2016, **and set forth** the specific grounds for the objection and your relation to the case, with the Clerk of Court at 1001 SW Fifth Avenue #700, Portland, Oregon 97204, and serve it on Brad T. Summers, Ball Janik LLP, 101 SW Main Street, Suite 1100, Portland, Oregon 97204, the Trustee will proceed to take the proposed action, or apply for an order if required, without further notice or a hearing.

DATED: August 31, 2016

BALL JANIK LLP

By: /s/ Brad T. Summers

Brad T. Summers, OSB No. 911116

tsummers@balljanik.com

Attorneys for Kenneth S. Eiler, Chapter 11 Trustee

On August 31, 2016, I served copies of the above notice on all ECF participants through the Court's Case Management/Electronic Case File system, and by mailing a full, true and correct copy in a sealed first-class postage prepaid envelope, addressed to all parties who have filed requests for notice in this case, and to all parties listed on the Court's mailing matrix, a copy of which is attached hereto, and deposited with the United States Postal Service at Portland, Oregon.

/s/ Stuart Wylen

Stuart Wylen, Paralegal and Legal Assistant

Label Matrix for local noticing
0979-3
Case 16-30233-rld11
District of Oregon
Portland
Wed Aug 31 15:21:21 PDT 2016

Charles Paternoster
Parsons Farnell & Grein, LLP
1030 SW Morrison Street
Portland, OR 97205-2626

Evergreen Aviation & Space Museum & Capt MKS
c/o Leonard Law Group LLC
Attn: Justin D. Leonard
1 SW Columbia, Ste. 1010
Portland, OR 97258-2024

SUSAN S FORD
1000 SW Broadway #1400
Portland, OR 97205-3066

OREN B HAKER
Stoel Rives LLP
760 SW Ninth Avenue
Suite 3000
Portland, OR 97205-2587

Hoffman Construction Company of Oregon
c/o Albert N. Kennedy
Tonkon Torp LLP
888 SW Fifth Avenue, #1600
Portland, OR 97204-2099

K&L Gates
1 SW Columbia Street
Suite 1900
Portland, OR 97258-2041

Legend Flyers
c/o Bob Hammer, Registered Agent
10728 36th Ave W.
Bldg 221
Everett, WA 98204-1304

Miller Nash
111 SW Fifth Avenue
Suite 3400
Portland, OR 97204-3614

TIMOTHY A SOLOMON
Leonard Law Group LLC
1 SW Columbia
Suite 1010
Portland, OR 97258-2024

ROBERT BOGHOSIAN
Cohen Tauber Spievack & Wagner P.C.
420 Lexington Avenue
Suite 2400
NEW YORK, NY 10170-2499

Colin Powers
PO Box 1812
La Pine, OR 97739-1812

Evergreen Aviation and Space Museum
500 Northeast Captain Michael King Smith
McMinnville, OR 97128-8877

GemCap Lending I, LLC
24955 Pacific Coast Highway, Suite A202
Malibu, CA 90265-4747

NICHOLAS J HENDERSON
Motschenbacher & Blattner, LLP
117 SW Taylor Street
Ste 300
Portland, OR 97204-3029

Hoffman Construction of Oregon
c/o Steven Zwierzynski
Seifer Yeats Zwierzynski & Gragg
121 SW Morrison St., Suite 1025
Portland, OR 97204-3140

ALBERT N KENNEDY
888 SW 5th Ave #1600
Portland, OR 97204-2030

CARLA GOWEN MCCLURG
DOJ-Ust
Office of the US Trustee
620 SW Main Street, Room 213
Portland, OR 97205-3026

North Pacific Evergreen, LLC
17116 Edwin Road
Woodburn, OR 97071

BRAD T SUMMERS
101 SW Main #1100
Portland, OR 97204-3219

Century Aviation
3908 Airport Way
East Wenatchee, WA 98802-8747

Kenneth S Eiler
515 NW Saltzman Rd - PMB 810
Portland, OR 97229-6098

DAVID A FORAKER
1515 SW 5th Ave #600
Portland, OR 97201-5449

Group Mackenzie, Inc.
1515 SE Water Avenue
Suite 100
Portland, OR 97214-3487

Henderson Bennington Moshofsky P.C.
4800 SW Griffith Dr #350
Beaverton, OR 97005-4735

IRS
PO Box 7346
Philadelphia PA 19101-7346

JUSTIN D LEONARD
1 SW Columbia #1010
Portland, OR 97258-2024

JEFFREY C MISLEY
1000 SW Broadway #1400
Portland, OR 97205-3066

Paul Kuehne
Creekside Valley Farm
4570 Lafayette Hwy
Dayton, OR 97114-7432

The Michael King Smith Foundation
1271 NE Hwy 99W, PMB 502
McMinnville, OR 97128-2720

US Trustee, Portland
620 SW Main St #213
Portland, OR 97205-3026

CAROLYN G WADE
Dept of Justice/Civil Enforce/Recovery
1162 Court St NE
Salem, OR 97301-4096

Yamhill County Tax Assessor
535 NE 5th St. #42
McMinnville, OR 97128-4532

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Daniel Bansen	(u)DRS Land, LLC	(u)Evergreen Aviation & Space Museum
(u)Evergreen Aviation and Space Museum and th	(u)GemCap Lending I, LLC	(d)Gemcap Lending I, LLC 24955 Pacific Coast Highway Suite A202 Malibu, CA 90265-4747
(u)Hoffman Construction Company of Oregon	(u)Oregon Dept of Revenue	(u)State of Oregon, Department of Justice
(u)Yamhill County Tax Assessor	(u)Yamhill County, Oregon	End of Label Matrix
		Mailable recipients 32
		Bypassed recipients 11
		Total 43